

REMARKS

This is in response to the Office Action dated June 19, 2007.

In the Office Action, at page 2, para. 7, the Examiner requested a copy of the reference to two books as indicated at page 11 of the Specification. By this Response to Office Action, Applicant hereby amends the Specification at Para. [0025] to delete reference to such books. The reference to such books was only as a matter of general background related to Internet connectivity, and not for purposes of patentability. In this regard, Applicant asserts that at the time of the effective filing date of the present patent application, Internet connectivity was well understood by one of ordinary skill in the art. As such deletion of such language is proper and does not affect the nature of the allowability of Applicant's claims or application.

In the Office Action at page 3, para. 9, the Examiner rejected Claim 1 under 35 U.S.C. Section 112, second paragraph, in regards to the first instance of "the user." By this Response to Office Action, Applicant has amended Claim 1 to recite "a user."

Also in the Office Action at page 3, para. 9, the Examiner rejected Claim 1 under 35 U.S.C. Section 112, second paragraph, in regards to the claim terms "*trade trigger criteria*" and "*market analysis software*." In regards to "*trade trigger criteria*," it is noted that the first instance of such term is in the first clause of element (a), namely: "(a) *receiving from ~~at~~the user trade trigger criteria for use by market analysis software*" (as presently amended). Thus to make the record absolutely clear, it is understood that "*trade trigger criteria*" is received from the "*user*." The Examiner indicates that an article "a" should be inserted before both "*trade trigger criteria*" and "*market analysis software*." However, certain nouns are considered "zero article" type of nouns (nouns that do not need any article upon introduction). Examples would include nouns such as "music" or "money" (e.g., "a user listens to music" and "a user transfers money"). The nouns "*criteria*" and "*software*" are two such nouns. Applicant respectfully requests the Examiner to reconsider the rejection

under 35 U.S.C. Section 112, second paragraph, in regards to the claim terms “*trade trigger criteria*” and “*market a nalysis software.*”

Also in the Office Action at page 3, para. 9, the Examiner rejected Claims 1, 2-7, 10, 12-19, and 21-28 under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention with regard to the claim term “*trade trigger criteria.*” While the Examiner has pointed to various pages of the specification that discuss claim term “*trade trigger criteria.*” The Examiner requests further discussion for her understanding. In this regard, while the Examiner has already cited to the specification, Applicant would like to direct the Examiner’ s attention specifically to Paragraph [0032] that reads as follows (as Applicant contends that this is as clear as a concise treatment of this subject as possible):

“In general the market analysis software 26 allows the trader to select, set and utilize a variety trade entry and exit criteria or triggers which may be based on price, volume, or derivations thereof (referred to as technical analysis tools or indicators). Thus, such tools or indicators are based upon the various values of the market data 27. The particular combinations and/or values of such trade entry and exit criteria are referred to herein as trade trigger criteria which is received from the user 12, preferably although not required, through the user interface 22. A few examples of such trade entry and exit criteria include, but are not limited to, volume, new highs or new lows (for periods from 1 minute to 52 weeks to current lifetime of the subject financial instrument), breakouts from corrective or consolidative patterns, support and resistance levels, trendlines, moving averages, standard deviation, volatility, rate of change, relative strength, alpha, beta, tick, arms index (“TRIN”), average directional movement, and various oscillators including, moving average convergence divergence, stochastics, relative strength index, on balance volume and accumulation/distribution. Additionally, as mentioned above, the trade trigger criteria may be based upon a status of the trading account 14. As such, account equity, trade positions, order status, and/or the prices at which the user 12 actually

previously purchased or sold a given financial instrument (as opposed to previous trade decisions and orders) may be taken into account by the market analysis software 26.”

Thus clearly, the “*market analysis software*” is an analysis tool that uses both the inputs from the investor and the market data. As stated in such passage, such input or “*trade trigger criteria*” may be, for example,

*volume;
new highs;
new lows;
breakouts from corrective patterns;
breakout from consolidative patterns;
support levels;
resistance levels;
trendliness;
moving averages;
standard deviation;
volatility;
rate of change;
relative directional movement;
various oscillators including, moving average convergence divergence;
stochastics;
relative strength index;
on balance volume;
and accumulation/distribution.*

Also in the Office Action at page 3, para. 9, the Examiner rejected Claims 1, 2-7, 10, 12-19, and 21-28 under 35 U.S.C. Section 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention with regard to the claim term “*market analysis software*.”

The Examiner queries: “*Does Applicants’ software analyze market conditions according to the highs and lows of the market and the bidding? How is this software different that any other software that is known by the Applicant in the trading art?*”

In this regard, as to only that portion of Applicant's software pertaining to the recited "market analysis software" such component of Applicant's software may be taken from the prior art. Specific examples of such "off-the-shelf" prior art market analysis software packages are recited in the specification. Paragraph [0030] reads:

"The market analysis software 26 is also referred to in the industry as market timing software and technical analysis software. Some examples of commercially available market analysis software 26 include, Tradestation by Omega Research, Inc. (symbol:OMGA) of Miami, Florida; MetaStock by Equis International (a Reuters company) of Salt Lake City, Utah; and Trading Expert Pro by AIQ Systems (a division of Track Data Corp., symbol: TRAC) of Incline Village, Nevada. The trading decision algorithms incorporated in the market analysis software 26 may vary greatly."

The Examiner further queries: *"Any submission by Applicants' that will assist the Examiner in understanding Applicant's 'trade trigger criteria' and how the 'market analysis software' is and what they do in relation to the novelty of the invention and assist in the determining patentability of the invention would be greatly appreciated."*

It is Applicant's contention that the overall combination of all of the claimed elements (including the software component of the "market analysis software" that may be of a prior art off-the-shelf type) is what is novel about Applicant's invention. This has been repeatedly stressed in the present prosecution history of record. See Applicant's various filings including:

Response to Office Action dated 2/26/04 overcoming the obviousness rejection in the Office Action of 11/26/03; Response to Office Action dated 1/19/05 overcoming the anticipation and obviousness rejections in the Office Action of 9/21/04; Response to Office Action dated 7/15/05 overcoming the anticipation and obviousness rejections in the Office Action of 5/19/05; Response to Office Action dated 12/20/05 overcoming the obviousness rejection in the Office Action of

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11/07/05; Response to Office Action dated 5/08/06 overcoming the obviousness rejection in the Office Action of 3/14/06.

It is further noted that the Office Action of 11/02/06 did not contain any rejections under 35 U.S.C. Sections 102 or 103.

In view of the forgoing, Applicant submits that the case is now in a condition for allowance. Finally, in view of this present case having been prosecuted more than six (6) years, repeated issuance of Office Actions with new rejections, and the hope that Applicant could possibly avoid incurring unnecessary legal fees/costs, additional passage of time, and general frustration, Applicant humbly requests that should the issuance of an additional Office Action be deemed necessary that the Examiner will attempt to contact Applicant's counsel to arrange a telephonic interview as scheduled at the Examiner's convenience.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 8/20/7

By:

Eric L. Tanezaki

Customer No.: 007663

Eric L. Tanezaki
Registration No. 40,196
STETINA BRUNDA GARRED & BRUCKER
75 Enterprise, Suite 250
Aliso Viejo, California 92656
Telephone: (949) 855-1246
Fax: (949) 855-6371

ELT/mb